

## Surface Transportation Board, DOT

## § 1113.1

### § 1112.5 Joint pleadings.

Parties with common interests are encouraged to prepare joint pleadings whenever possible.

### § 1112.6 Verified statements; contents.

A verified statement should contain all the facts upon which the witness relies, and to the extent that it contains arguments, they should be based only on those facts. Parties filing reply and rebuttal verified statements will be considered to have admitted the truth of material allegations of fact contained in their opponents' statements unless those allegations are specifically challenged. Rebuttal statements shall be confined to issues raised in the reply statements to which they are directed.

### § 1112.7 Records in other Board proceedings.

If any portion of the record before the Board in any proceeding other than the proceeding at issue is offered in evidence, a true copy should be presented for the record.

[47 FR 49558, Nov. 1, 1982, as amended at 61 FR 52712, Oct. 8, 1996]

### § 1112.8 Verification.

The original of any pleading filed must show the signature, capacity, and seal, if any, of the person administering the oath, and the date thereof.

### § 1112.9 Sample verification for statement of fact under modified procedure.

State of \_\_\_\_\_,  
County of \_\_\_\_\_,  
SS: \_\_\_\_\_  
\_\_\_\_\_ being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted there are true and that the same are true as stated.  
Signed \_\_\_\_\_.  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.  
Notary Public of \_\_\_\_\_.  
My Commission expires \_\_\_\_\_.

### § 1112.10 Requests for oral hearings and cross examination.

(a) *Requests.* Requests for oral hearings in matters originally assigned for handling under modified procedure must include the reasons why the mat-

ter cannot be properly resolved under modified procedure. Requests for cross examination of witnesses must include the name of the witness and the subject matter of the desired cross examination.

(b) *Disposition.* Unless material facts are in dispute, oral hearings will not be held. If held, oral hearings will normally be confined to material issues upon which the parties disagree. The decision setting a matter for oral hearing will define the scope of the hearing.

[61 FR 52712, Oct. 8, 1996]

### § 1112.11 Authority of officers.

Except to the extent that they apply only to the conduct of a public hearing, the officer assigned to handle a proceeding under the modified procedure shall have the same authority as officers assigned to conduct oral hearings as described in § 1113.3(a) and (b).

## PART 1113—ORAL HEARING

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AUTHORITY: 5 U.S.C. 559; 49 U.S.C. 721.

SOURCE: 47 FR 49559, Nov. 1, 1982, unless otherwise noted.

### § 1113.1 Scheduling hearings; continued hearings.

(a) *Assignment; service and posting of notice.* In those proceedings in which an oral hearing is to be held, the Board

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will assign a time and place for hearing. Notice of hearings will be posted on the Board's Web site, will be served upon the parties and such other persons as may be entitled to receive notice under the Act, and will be available for inspection at the Board's office.

(b) *Requests for changes in assignment.* Requests for postponements of date of hearing will be granted only in exceptional circumstances.

(c) *Continuances.* (1) A continuance may be granted at the discretion of the presiding officer.

(2) If the presiding officer announces the time and place of a continued hearing on the record, no further notice need be given.

[47 FR 49559, Nov. 1, 1982, as amended at 61 FR 52712, Oct. 8, 1996; 74 FR 52907, Oct. 15, 2009]

### § 1113.2 Subpoenas.

(a) *Issuance.* A subpoena may be issued upon the direction of the Board on its own motion or upon request. A subpoena may be issued by the Board or by the officer presiding at a hearing and must be signed by the Director of the Office of Proceedings or a member of the Board.

(b) *Requests.* (1) A request for a subpoena to compel the appearance of a person at a hearing to give oral testimony, but not to produce documents, may be made either by letter (only the original need be filed with the Board) or orally upon the record at the hearing. A showing of general relevance and reasonable scope of the evidence sought to be introduced through the subpoenaed person may be required.

(2) A request for a subpoena to compel a witness to produce documentary evidence should be made in writing by petition. The petition should specify with particularity the books, papers, or documents desired and facts expected to be proved, and should show the general relevance and reasonable scope of the evidence sought. The officer presiding at a hearing may grant a request for such a subpoena made orally upon the record.

(c) *Service.* The original subpoena should be exhibited to the person served, should be read to him if he is unable to read, and a copy should be

delivered to him by the officer or person making service.

(d) *Return.* If service of subpoena is made by a United States marshal or his deputy, service should be evidenced by his return on the subpoena. If made by any other person, such person shall make an affidavit stating the date, time and manner of service; and return such affidavit on, or with, the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure should be stated on the original subpoena. The written acceptance of service of a subpoena by the person subpoenaed will be sufficient without other evidence of return. The original subpoena bearing or accompanied by the required return, affidavit, statement, or acceptance of service, should be returned forthwith to the Chief, Section of Administration, Office of Proceedings, unless otherwise directed.

(e) *Witness fees.* A witness who is summoned and responds to the summons is entitled to the same fee as is paid for like service in the courts of the United States. Such fee is to be paid by the party at whose instance the testimony is taken at the time the subpoena is served, except that when the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered at the time of service.

[47 FR 49559, Nov. 1, 1982, as amended at 61 FR 52712, Oct. 8, 1996; 74 FR 52907, Oct. 15, 2009]

### § 1113.3 Authority of officers.

(a) *General.* (1) The presiding officer has the authority to regulate the procedure in the hearing before him, and has authority to take all measures necessary or proper for the efficient performance of the duties assigned him. These include authority: (i) To hold hearings; (ii) to administer oaths and affirmations; (iii) to grant intervention; (iv) to accept any pleading; (v) to establish special rules of procedure appropriate to the effective handling of the particular proceeding; (vi) to examine witnesses; (vii) to issue subpoenas